IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Crl.MC.No. 2602 of 2007()

CRMP.915/2006 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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PETITIONER: COMPLAINANT

LISSY JOPHY JAYAN, D/O.GIRIJA, AGED 30,
SREEGIRI, PALAKUNNU, CHIRAYINKEEZHU,
(NOW RESIDING AT TNA 56, GREESHMA, THOPPIL NAGAR,
KUMARAPURAM, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM).

BY ADV. SRI.M.BALAGOVINDAN
SRI.M.R.SASITH

RESPONDENTS: ACCUSED & STATE

1. K.P.AMBIKA DEVI, KOUSTHUBHAM,
T.C.1/1204, POONTHI ROAD, KUMARAPURAM,
MEDICAL COLLEGE WARD, CHERUVAIKKAL VILLAGE,
THIRUVANANTHAPURAM.

2. JOPHY JAYAN, KOUSTHUBHAM,
T.C.1/1204, POONTHI ROAD, KUMARAPURAM,
MEDICAL COLLEGE WARD, CHERUVAIKKAL VILLAGE,
THIRUVANANTHAPURAM.

3. JYOTHIS, KOUSTHUBHAM,
T.C.1/1204, POONTHI ROAD, KUMARAPURAM,
MEDICAL COLLEGE WARD, CHERUVAIKKAL VILLAGE,
THIRUVANANTHAPURAM.

4. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.C.C.THOMAS
PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2602 Of 2007

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Dated this the 10th day of September, 2007

ORDER

The petitioner is the defacto complainant in a prosecution initiated, inter alia, under Sec.498A. Respondents 1 to 3 are the accused in the said crime. The crime was registered on the basis of private complaint filed by the petitioner which was referred by the learned Magistrate to the Police under Sec.156(3) Cr.P.C. Respondents are the mother in law, husband and brother of the husband.

2. The petitioner has filed this application to quash the proceedings intitated by her against the respondents 1 to 3/ accused, invoking the powers under Section 482 Cr.P.C. The parties have settled their disputes amicably. The Spouses have resumed cohabitation and are residing harmoniously after the commencement of the proceedings. In these circumstances, the unnecessary continuance of the criminal prosecution against the respondents is an avoidable irritant in their relationship. The petitioner prays that the FIR registered on the basis of her complaint may be quashed invoking powers under Sec.482 Cr.P.C. The respondents 1 to 3 have entered appearance through counsel. They confirm that the matter has been

settled between the petitioner and the 2nd respondent. The learned Public Prosecutor was requested to take instructions. The learned Public Prosecutor confirms that the petitioner and her husband have willingly and voluntarily settled their disputes and have resumed cohabitation and are residing harmoniously.

3. I am, in these circumstances, satisfied from the averments made in the petition, submissions made at the Bar and from the joint statement filed by the petitioner and the respondents 1-3, that the parties have willingly and voluntarily settled their disputes amicably. t

4. However, the offence under Section 498A I.P.C is not legally compoundable under Sec.320 Cr.P.C. The learned counsel, in these circumstances, rightly rely on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the powers under Section 482 Cr.P.C are not fettered by the stipulations of Sec.320 Cr.P.C.

5. I am satisfied that this is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked in the interests of justice. The interests of justice may at times transcend the interest of mere law. I am satisfied that the prayer of

the petitioner and respondents 1-3 can be accepted.

6. In the result, this Criminal Miscellaneous Case is allowed. Crime No. 102/2006 of Medical College Police Station, Thiruvananthapuram is hereby quashed.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE